PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Hoffberg et al

Filed : March 2, 1999

Serial No. : 09/260,802

For : ADAPTIVE PATTERN RECOGNITION BASED CONTROLLER APPARATUS AND METHOD AND HUMAN-FACTORED INTERFACE THEREFORE

Examiner : Gordon, Paul B.

GAU : 2121

August 11, 2003

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

Dear Sir:

PETITION FOR RESCISSION OF RESTRICTION REQUIREMENT

Applicants request withdrawal of the requirement for restriction pursuant to 37 C.F.R. 1.144. No fee is apparently specified in the 37 C.F.R., either by within or by reference from 37 C.F.R. 1.144 or within 37 C.F.R. 1.17. No fee is therefore believed due in connection herewith. Please contact the undersigned if any fee is believed due, as advanced deposit account fee authorization is specifically withheld for purposes hereof.

The Examiner has made final a restriction of claims 1-114, in which claims 35-65 were elected with traverse on December 17, 2001. Traverse was specifically maintained with respect to claims 66-114. A timely request for reconsideration was lodged, and the requirement affirmed.

Applicants' basis for requesting consolidated consideration of the claims in issue are based on the fact that the present application involves a request for interference. MPEP §

2303.01 evidences a specific policy on the part of the U.S., Patent and Trademark Office to prosecute all copied claims in patent applications as early as possible, without deferring consideration by way of restriction requirement.

The Examiner rejected this argument made in Applicants' traversal and request(s) for reconsideration, relying on the fact that MPEP § 2303.01 relates to interferences between pending applications as a basis for refusing to consider whether, in fact, an interference should be declared with respect to the non-elected claims. While it appears to be true that there is no corresponding MPEP section to § 2303.01 for an interference between an application and an issued patent, it is not true that this leads to a conclusion that the restriction is nevertheless proper. The policies and principles embodied in the applicable rules (37 C.F.R.) and laws (35 U.S.C.) necessarily lead to the conclusion that the issues are the same, and therefore that, upon evidence of applicant's intent to claim the same subject matter as that in an issued patent, the Office should, with special dispatch, seek to determine whether an interference should be declared. This policy therefore dictates that the interference issues arising in divisible inventions be addressed immediately, and not be deferred as a result of a restriction or election requirement.

Rescission of the Restriction Requirement, and prosecution of all of the copied claims in this application, is therefore respectfully solicited.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Services as first class mail in an envelope addressed to: Commissioner for Patents and Trademarks, Washington, D.C. 20231 on 8/11/03 Alexandria VA 22313

By

Date 8/11/03